

BEFORE THE DEPARTMENT OF FISH, WILDLIFE AND PARKS
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.3.403 pertaining to) PROPOSED AMENDMENT
replacement licenses)

TO: All Concerned Persons

1. On August 15, 2007, at 6:00 p.m., the Department of Fish, Wildlife and Parks (department) will hold a public hearing at 1420 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the department no later than 5:00 p.m., August 1, 2007, to advise us of the nature of the accommodation that you need. Please contact Mike Korn, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701; telephone (406) 444-2456; fax (406) 444-7894; or e-mail mkorn@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

12.3.403 REPLACEMENT LICENSES (1) ~~Replacement licenses or permits may be issued by authorized agents if the original license is lost, stolen or destroyed.~~ A person may replace a department-issued hunting license or permit that is lost, stolen, or destroyed by signing an affidavit affirming that the license was lost, stolen, or destroyed. A person may obtain and submit the affidavit at a department office or any department license provider.

(2) To replace a lost, stolen, or destroyed license requiring a carcass tag the second time for the same species within a two-year period, the following apply:

(a) a carcass tag is that portion of a hunting license that a person is required to affix to the carcass of an animal;

(b) the two-year period shall run from March 1 of the year of license purchase through February 28, 24 months later;

(c) the person shall obtain, complete, and submit an affidavit affirming that the tag was lost, stolen, or destroyed;

(d) the person shall appear personally at a department regional or area office or at headquarters in Helena, Montana to obtain, complete, and submit the affidavit.

(3) A person may not replace a license requiring a carcass tag a third time for the same species within a two-year period. Subsection (2)(b) defines the two-year period.

~~(2)~~ (4) The fee for each replacement license or permit issued under this rule is ~~not to exceed~~ \$5.

AUTH: 87-2-104, MCA
IMP: 87-2-104, MCA

4. The purpose of a replacement license is to assist a hunter who has legitimately lost or inadvertently destroyed a license, permit, or tag. The first section of the proposed rule amendment reflects the department's current process for issuing a replacement license.

The proposed rule amendment is necessary to prevent illegal use of replacement licenses. The number of replacement licenses issued has increased drastically over the last four years. For instance, the number of deer replacement licenses went from about 4500 in 2002 to over 8000 in the year 2006. A portion of the replacement licenses that have been issued multiple times have been used illegally. Department enforcement has discovered a number of cases and circumstances where a hunter obtains multiple licenses, permits, and/or tags and uses them to facilitate the crimes of hunting without a license (87-2-103, MCA), using a license, tag, or permit illegally (87-2-110, MCA), and possessing unlawfully-taken game animals (87-2-111, MCA). Generally, the illegal circumstances involve a person obtaining a replacement while still possessing or having used the original and then using the replacement to unlawfully take a second animal. Or, a person falsely replacing a game license or tag has made a "replacement" available to another person who is not licensed.

The use and presentation of a tag on a game animal carcass is the method by which a person can attempt to transport and possess an unlawfully taken game animal, unless and until an investigation reveals the illegalities involved. Thus, the illegal use of replacement tags plays a major part in enforcement's inability to initially detect (at game check stations, etc.) illegal taking of wildlife. Requiring that anyone who loses more than one license for the same species in the course of two license years to make replacement requests at regional, area, or state offices will substantially reduce the number of capricious duplicate licenses sold as well as provide means to reduce the number of duplicates in circulation for unlawful purposes.

The fee increase is necessary to offset department administrative costs for issuing duplicate licenses and to reduce the number of unnecessary duplicates sold. A maximum fee of \$5 for replacement licenses is permitted under 87-2-104, MCA. This fee increase will affect approximately 50,860 people based on the total number of replacement licenses issued in 2006. The fee increase will increase revenue from replacement licenses by approximately \$184,125.

5. Concerned persons may present their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted to Mike Korn, Department of Fish, Wildlife and Parks, 1420 East Sixth Avenue, P.O. Box 200701, Helena, Montana 59620-0701; telephone (406) 444-2456; fax (406) 444-7894; or e-mail mkorn@mt.gov. Any comments must be received no later than August 23, 2007.

6. Rebecca Dockter, or another hearing officer appointed by the department, has been designated to preside over and conduct the hearing.

7. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the department or commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

/s/ M. Jeff Hagener

M. Jeff Hagener,
Director
Department of Fish, Wildlife and
Parks

/s/ Robert N. Lane

Robert N. Lane
Rule Reviewer

Certified to the Secretary of State July 16, 2007.